

**News Headline:** Foot-dragging over the Everglades |  

**Outlet Full Name:** Miami Herald - Online, The  
**News OCR Text:** Posted on Monday, 09.27.10

OUR OPINION: cf,gtm Court's impatience with EPA is well-grounded

Last week's order by Federal District Judge Alan S. Gold directing EPA Administrator Lisa Jackson to show up in his Miami courtroom -- or else -- is one more in a long series of attempts by frustrated South Florida jurists to make the government comply with its responsibility to clean up the Everglades.

Bravo, Your Honor -- and good luck with that.

"The defendants (Ms. Jackson and two other environmental officials) are hereby placed on notice that failure to comply with the terms of this Order will not be tolerated," the judge declared.

Ms. Jackson, administrator of the Environmental Protection Agency, would be wise to heed the order. Judge Gold clearly means business and has every reason to be upset and impatient with government foot-dragging in Everglades litigation.

This particular Everglades lawsuit -- there are others pending -- was filed more than five years ago. It's been moving forward at a snail's pace, thanks to government lethargy and stalling tactics.

Judge wants explanation

Frustrated with the persistent delays, the judge on April 14 ordered the officials to appear in his courtroom to explain why the legally mandated standard on water quality of the Everglades has not been met.

That was more than five months ago, yet last week Ms. Jackson said she couldn't be present because she's on a very important mission to Asia that starts on Oct. 8 and just can't make the time. The court was not impressed. Neither are we.

Judge Gold was at pains to point out "the significant nature of the issues in this case" and the failure of Ms. Jackson and other named bureaucrats to make "any showing of a matter of national importance, issue, or great significance to preclude" their attendance.

Ms. Jackson, through the government's lawyers, offered to send an aide. But Judge Gold rightly noted that as EPA director she is a named party to the lawsuit and the court has a right to pose direct questions to her and the others about whether their strategies for meeting water purity standards "are a sincere commitment or merely an empty shell."

That gets to the heart of the matter.

A complaint by Friends of the Everglades and others filed years ago accused the EPA (under a previous administrator) of acting "arbitrarily and capriciously" in failing to comply with federal water quality standards for the Everglades.

No activist court



In July 2008, Judge Gold entered a summary judgment in favor of the plaintiffs, but not until last month did the EPA file a plan that might meet the court's mandate for "an enforceable framework for ensuring compliance."

Hence, the court's impatience.

Judge Gold is no activist judge. He has a well-deserved reputation as a top-flight, even-tempered, thoughtful jurist. And he's been patient enough already.

Indeed, he pointedly noted in his previous order that he was reserving his right to use the court's contempt powers if officials don't comply. Ms. Jackson is tempting fate if she fails to appear.

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**News Headline:** Vote no on Proposition 23 |  

**Outlet Full Name:** San Francisco Chronicle - Online  
**News OCR Text:** Christof Stache / AFP/

Proposition 23, put on the ballot by climate-change skeptics and out-of-state oil companies, would invalidate California's landmark law to do something about a warming planet. The measure plays to fears about jobs and rising costs in a weak economy. It brushes off a barrage of studies showing the health, economic and social dangers of greenhouse gases and the nation's risky dependence on imported oil.

Instead it asks voters to essentially cancel legislation passed four years ago that plots a new course for California by rolling back greenhouse gas emissions to 1990 levels by 2020. Prop. 23 requires that the law, known as AB32, be suspended until the jobless rate hits 5.5 percent of the population, a level California has experienced only three times in 40 years. The measure doesn't hit the pause button on climate change rules, as backers claim. It effectively hits the kill button.

Why would California want to turn back the clock on a matter of such environmental urgency and potential economic benefit to

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homegrown companies that are positioning themselves to lead the way on green technology?

Follow the money.

Two top financial backers of the measure - the Texas-based Valero and Tesoro oil firms - run major refineries in California. These operations are key sources of greenhouse gas emissions and put the firms under a cap-and-trade system that would oblige them to clean up operations or pay significant new fees. Another contributor is a subsidiary of Koch Industries, whose executives have poured money into efforts to debunk climate change science.

Prop. 23 isn't what it seems on another score. It pretends to be about saving jobs that may be lost by climate change controls. But state programs promoting solar panels, tailpipe emissions standards, land use and energy-efficient appliances would remain even if Prop. 23 passes. These exemptions suggest what this measure is all about: saving money for a handful of polluters who don't want to change their ways.

This self-interest may explain why other California businesses are cool to the measure. Oil giant Chevron and the state are neutral. Along with Gov. Arnold Schwarzenegger, a leading opponent of Prop. 23 is Reagan Cabinet member George Shultz, who believes dependence on foreign oil is a security threat.

There's another fact that should concern California voters: They're being used. The backers of Prop. 23 want a win to undercut any revived talk in Washington about greenhouse gas emissions. The Senate failed to pass legislation this summer, leaving it up to the U.S. Environmental Protection Agency to devise controls. If Prop. 23 passes, the victory will be used to bottle up new action, leaving this country mired in do-nothing policies.

Curbing climate change will be a challenge. Studies of the present state regulations show "there will be some modest reduction in California's gross state product," according to the nonpartisan State Legislative Analyst's Office. In the short term, energy costs will rise in the changeover to other fuel sources.



But there are bigger risks if this misguided measure is passed. Billions in investment money and thousands of new jobs will go elsewhere, where the political climate is welcoming and the rules won't be rewritten by interest groups. California's fragile recovery can't afford the chaos that Prop. 23 will bring.

This state is a leader in fighting climate change. Voters shouldn't relinquish this prominent role because of the backward views of major polluters.

Vote no on Prop. 23.

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**News Headline:** Pa.'s controversial windfall |  

**Outlet Full Name:** Philadelphia Inquirer - Online

**News OCR Text:** The state legislature hasn't even passed the controversial Marcellus Shale severance tax, and there's already disagreement over how to spend it.

Environmental groups want funding to prevent underground water supplies from being contaminated by drilling. Agencies like the Fish and Boat Commission and the Game Commission want to protect the land, air, and water around drilling areas. And municipalities want to **repair** roads damaged by heavy trucks and other drilling equipment.

Interesting how something that was supposed to be such a windfall for Pennsylvania is proving so controversial.

When Gov. Rendell began leasing state forest land to gas companies, property owners were told that deposits trapped miles beneath the bedrock hold enough natural gas to supply the United States for 15 years. According to the sales pitch, drilling would free the country from dependence on foreign energy sources, help balance the state budget, and create jobs for and reward property owners who leased their land with more than \$1,000 an acre plus a cut of the profits.

Drilling was a no-brainer for Harrisburg, especially after the gas industry spent more than \$7 million on lobbying and campaign contributions to Rendell and legislators. Shortly afterward, thousands of new well permits were issued by the state **Department** of Environmental Protection.

Since then, some streams and underground water deposits have been contaminated by fluid used in the drilling process. The most notable incident occurred last September, when the DEP reported that an estimated 8,000 gallons of fracking fluid spilled into a creek near Dimock, Susquehanna County. Two months later, several Dimock residents sued Cabot Oil & Gas Corp., claiming its drilling caused gastrointestinal sickness and reduced property values.

Such incidents have pitted property owners who have leased to the drillers against neighbors who haven't. In fact, some who have leased their land now realize the environmental dangers and have unsuccessfully attempted to extricate themselves from contracts.

Now comes the shale tax bill, which, if Rendell and the gas companies have their way, will include a provision for "forced pooling." That would require property owners to surrender mineral rights to private drilling companies that have similar rights nearby. The owners may or may not be compensated. It's yet another way for the state to manipulate eminent domain to replenish its coffers and, in this case, those of the gas industry.

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If forced pooling is enacted as part of the severance tax, the next governor had better hope that there are no more accidents like Dimock. The gas industry is protected from any liability because the Safe Drinking Water Act prevents the U.S. Environmental Protection Agency from regulating the fracking process.

Instead, the commonwealth, which is responsible for ensuring the safety of drinking water, will find itself buried in class-action suits. That will be yet another way for the state to spend the \$100 million generated by the shale tax.

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**News Headline:** Bitter climate puts major energy legislation on ice |  

**Outlet Full Name:** Houston Chronicle - Online

**News OCR Text:** But plans to expand offshore drilling, cap greenhouse gas emissions and use federal dollars to spark a nuclear power renaissance have collapsed on Capitol Hill amid partisan bickering and entrenched regional disputes.

The window for passing any sweeping energy proposals now has closed and those big ideas aren't likely to go anywhere during Obama's first term in the White House.

"Congress is going to tiptoe through this issue more than they have the last few years," said Jim DiPeso, policy director for Republicans for Environmental Protection, an advocacy group. "There will probably be more piecemeal attempts to deal with energy issues, rather than an all-encompassing magnum opus." Major political obstacles will be standing in the way. The House and Senate will inevitably be more evenly divided - with a narrower ratio of Democrats and Republicans on influential committees, reflecting the expected results of the Nov. 2 elections.

That also means congressional leaders will have a tougher time lining up enough votes to pass anything significant - much less controversial energy plans.

The anticipated election of some tea party-backed candidates - and the surge of anger from voters concerned about federal spending - also will be a roadblock for expensive plans to subsidize nuclear power, renewable energy sources and so-called "clean coal" technology. And that's even before presidential election politics start getting in the way leading up the 2012 election.

"The more time you take, the closer you are to the colossal distractions of the 2012 election cycle," DiPeso said. "Time will be a luxury that Congress does not have because you'll start to see the early moves of the presidential dance begin sooner rather than later." The administration's plan for an economywide cap-and-trade system for reining in greenhouse gas emissions is completely off the table, said Kevin Book, an analyst with the Washington, D.C.-based research firm ClearView Energy Partners.

"The notion of a big climate bill ... is over for as far as we can see," Book said.

In its place: legislation that would bar the U.S. Environmental Protection Agency from regulating those emissions, at least for a few years.

"It's difficult to imagine passage of global warming legislation in the next Congress," said Daniel J. Weiss, of the liberal Center for American Progress Action Fund.

"It's much more likely there is a pitched battle about whether to block EPA from setting limits on global warming pollution." Even with expected Republican gains in the House and the Senate, initiatives to expand offshore drilling also are dead in the water. The idea had been advanced this year as part of a potential compromise in a global warming package. Even if the oil spill in the Gulf of Mexico hadn't made the issue politically treacherous, supporters would have a tough time overcoming opposition from drilling foes in the Senate - especially if they couldn't wedge the plan into a broader energy bill.

Sen. Susan Collins, R-Maine, said Congress is better off trying to pass separate energy proposals instead of struggling to enact "a complex bill." Congress has been trying "to bite off too many issues," Collins said. "We don't do comprehensive well. We should make progress in the areas where there is bipartisan consensus." One of the top candidates is a proposal for a government-run "clean energy bank" that would help finance projects to commercialize alternative energy technology.

Other possibilities include proposals that would give a boost to electric cars and help pay for the infrastructure to support natural-gas-powered vehicles.

There also is growing bipartisan support for legislation that would force power utilities to slash their emissions of three pollutants: mercury, sulfur dioxide and nitrogen oxide.

But even if Congress can agree on those ideas, the lawmakers would still have to find a way to pay for them.

Failed cap-and-trade plans would have funded some clean energy programs using the revenue raised by selling emissions permits. Without that dedicated revenue stream, Congress will have a tough time footing the bill, Weiss said.

Lawmakers will be focused on cutting the budget, not paying for ambitious new energy programs, he said.

"They're going to be competing with every other program that's on the chopping block," Weiss predicted. Supporters of the energy proposals "will have no way to pay for them at a time when they're going to be cutting not just fat, not just muscle (but also) cutting

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federal government bone.? When climate change proposals collapsed, so did the chance of using the plan to pay for - and leverage - other energy initiatives, Book said.

"The funding for high-cost sources, as well as the political incentives to make some of the difficult trade-offs, are all gone,? Book said. "The fiscal conservatism future means there's less opportunity for big spending."

DiPeso predicted that some newcomers to Congress - especially Republicans who have benefited from the tea party movement - will be reluctant to open the purse strings for new alternative energy programs.

"You're going to have a lot of new members coming in who aren't going to want to spend anything on subsidies for business - or anybody else for that matter,? DiPeso said. "If those veterans in Congress want to do something to gin up new nuclear power or push electrification of transportation, which will cost money - or do anything that puts numbers on the federal ledger - then they're going to have to make the argument that this is very important.? Sensing the looming blockade, lawmakers and lobbyists have been setting the stage for a flurry of action on energy issues when Congress returns after the November elections for a lame-duck session.

Sen Jeff Bingaman, D-N.M., and retiring Sen. Sam Brownback, R-Kan., are leading a last-ditch campaign to pass legislation that would mandate that power utilities generate 15 percent of their electricity from renewable sources by 2021.

Under their proposal, wind-generated electricity and solar power would count toward the mandate, but nuclear power would not - a major obstacle for many Republicans.

Lawmakers are laying the groundwork for a plan to get rid of some tax incentives used by the oil and gas industry. One plan backed by the Obama administration would change the rules for so-called dual-capacity taxpayers - effectively restricting the credit that they can claim on their U.S. returns for taxes paid to foreign governments.

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**News Headline:** Let **EPA** do its job |  

**Outlet Full Name:** Toledo Blade - Online

**News OCR Text:** THE U.S. Environmental Protection Agency was established in 1970 by President Richard Nixon, at a time when Americans had become shocked by pollution. Because the **EPA** has since saved tens of thousands of lives and improved the quality of life for millions, it ought to be celebrated as one of the great achievements by a Republican or any other president.

But 40 years later, some of the most conservative groups in America are trying to stop the **EPA** from doing its job. As an example of big government that works for people, the agency faces resentment in right-wing circles that has long simmered but lately has grown in intensity. The trigger for this renewed opposition came in 2007, when the U.S. Supreme Court ruled that the **EPA** has authority under the Clean Air Act to regulate greenhouse gases.

Since then, the **EPA** has been promulgating regulations. Industry groups and the politicians who cater to them have been pushing back with renewed zeal. Predictably, the claim that the new rules will ruin the economy has been part of the chorus. With the anti-government, anti-regulation cries of the Tea Party echoing across the land, the threat to the **EPA**'s future effectiveness is not imaginary.

Last June, Sen. Lisa Murkowski (R., Alaska) fired a preliminary shot in this campaign when she attempted to stop the **EPA** from regulating greenhouse gas emissions. She did not succeed, but the Senate vote was a close 53-47, with half a dozen Democrats joining Republicans. As it was, the vote signaled that the hopes of passing a comprehensive energy bill this year were doomed.

With the foes of environmental regulation emboldened, environmental groups fear that it is only a matter of time before other efforts to gut the **EPA** succeed, as Congress finishes up its session.

Sen. Jay Rockefeller (D., W. Va.) protective of the interests of Big Coal, wants to suspend for two years **EPA** rules on carbon dioxide and methane for stationary sources of pollution such as power plants. There's also a House version. But the threat could just as easily come attached to any important bill, one that President Obama would be hard-pressed to veto.

Ohio's congressional delegation needs to stand firm. If any member needs encouragement, it can be found in a speech by **EPA** Administrator Lisa Jackson on the 40th anniversary of the Clean Air Act earlier this month.

"Today's forecasts of economic doom are nearly identical - almost word for word - to the doomsday predictions of the last 40 years," she said. "This broken record continues despite the fact that history has proven the doomsayers wrong again and again."

The best job Congress can do is to let the **EPA**, which has a proven record of protecting the American people over four decades, do its job.

Permanent LinkLet **EPA** do its job

<http://www.toledoblade.com/apps/pbcs.dll/article?AID=/20100927/OPINION02/9260317/-1/RSS02>

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**News Headline:** Dioxin rules could hurt recovery |  

**Outlet Full Name:** Houston Chronicle - Online

**News OCR Text:** Meanwhile, back in Washington, D.C., the U.S. Environmental Protection Agency is using a regulatory approach to dioxin to try to answer the question, "How many bureaucrats does it take to crush a recovery?"

The **EPA** is trying to test this question with new proposed regulations that would change existing standards related to dioxin in dirt, making them hundreds of times stricter than those that have been used in the past for cleaning up Superfund and other contaminated sites. By changing these standards, sites that were already cleaned up under the older standards would have to be retested, and those that do not meet the new criteria would have to be retreated or re-excavated, probably at public expense.

The potential costs in money and disruptions to communities are currently unknown, but based on previous experience, they are not likely to be cheap. The new rules will affect state and municipal budgets, communities, businesses and individual property values, and deter investors and lenders from developing once-contaminated "brownfields" properties.

Apparently the federal government has not noticed that as a result of the recession, states are being forced to cut services and lay off employees so they can balance their budgets with shrinking tax revenues. Given the budget crises in many states, including Texas, new mandates of this type may have very serious consequences. Texas is facing a \$18 billion budget shortfall, and state agencies have been instructed to plan for a 10 percent reduction on top of last year's 5 percent cuts.

In this difficult and unstable economic climate, states and local governments do not have millions to spend recleaning soil that has already been cleaned once. The **EPA's** failure to put its decisions into the context of the many significant challenges we face gives the impression the agency lives in an Alice in Wonderland

The public has little confidence in the agency, partly because of its lack of perspective about what is important and what will do more harm than good.

This soil initiative might make sense if it were clear it would produce an improvement in human health. Unfortunately, this is not the case. There is no evidence that the public is experiencing any health problems from exposure to dioxin in soil at the levels at which it is currently found. And, regulations already in place have been extremely successful, reducing dioxin from man-made sources by 92 percent since 1987, according to **EPA** data. Without further changes in regulations, dioxin in the environment will continue to decline.



In addition, the National Academy of Sciences is skeptical about the methodology the **EPA** is using to evaluate dioxin and recommends a different approach that is used by the World Health Organization and other national bodies. So, despite the lack of compelling evidence that anyone is at risk, **EPA** is using questionable assumptions to set targets that the Soil Science Society of America has called unrealistic.

The agency needs to rethink its priorities and come up with a more reasonable and scientifically defensible approach, or better yet, simply leave it (and us) alone.

Hammond is president of the Texas Association of Business.

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**News Headline:** **EPA** sets unrealistic standards for coal |  

**Outlet Full Name:** Lexington Herald-Leader - Online

**News OCR Text:** At issue | Aug. 23 column by Rick Clewett, "Coal industry attacks aim to distract voters; Mining can be done without spoiling streams, Chandler right to protect environment"

I won't comment on the column's twisted logic relative to the congressional campaign, but the science and engineering the writer cites is wrong.

The fact that he's a University of Chicago-trained English professor may have something to do with his misunderstanding. Also, the fact that he is active in the Sierra Club's "Beyond Coal" campaign likely interjects some bias as well. Everyone is entitled to an opinion. But one cannot selectively ignore facts.

New guidelines could reduce number of streams buried in surface mining

New **EPA** rules a harsh blow to Appalachia

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W.Va. mountaintop-removal project's fate might predict mining's future

Coal a 'driving factor' in U.S. Senate race

Study of coal ash sites finds extensive water contamination

The valley-fill process used in surface mining is no different than the processes used in highway construction or commercial real estate development.

When earth and rock are removed from a cut, they have to go somewhere. And contrary to Clewett's contention, the same is true for rock removed to construct a deep mine site. Where does he think it goes?

The difference is that, by law, as a surface mine progresses, the mined area has to be restored to "approximate original contour" or AOC, which places much of the rock back on the mountain. When a road project is completed through mountainous terrain, we enjoy the safety and convenience of a four-lane highway with 10-foot shoulders, but all of the dislodged rock remains in a valley fill.

Other sources of pollution pose far more significant problems to water quality than coal mining.

Don't take my word for it. Go to the state's Division of Water Web site and see for yourself. There is a study there that lists sources of stream degradation. Mining is on the list, but well behind chemical and industrial runoff, human and animal waste, agricultural runoff and other sources.

Fact three addresses the issue of conductivity to which Clewett alluded. Conductivity, in its simplest definition, is a liquid's ability to conduct electricity based on dissolved solids. In April, the Environmental Protection Agency announced a new rule that would set the conductivity of mine runoff at 300-500 microsiemens per centimeter. It's the EPA's contention that such levels are necessary to protect aquatic life, particularly mayflies, even if it costs Appalachia tens of thousands of mining jobs.

Clewett stated that he and a friend had conducted testing along the North Fork of the Kentucky River and found "results were high enough to cause concern."

We've conducted our own conductivity measures and found similar results.

For example, tap water at our office in Lexington is 496. Tap water at a hotel in Louisville was 545. Even in our nation's capital, conductivity of tap water at Reagan National Airport was 437.

And the highest to date — a small restaurant in Cumberland — was where conductivity was 677.

How can the EPA hold coal companies to a higher standard than municipal water companies? And why is it imposing the standard only on coal mining and only in Central Appalachia?

It's flawed science being arbitrarily enforced, and that's why the EPA is being sued by the National Mining Association.

Voters will make their own decisions Nov. 2. We are not attempting in any way, shape or form to distract them.

On the contrary, we are battling daily the onslaught of regulation, litigation and legislation that all stand to artificially increase the cost of producing electric power in Kentucky and the scores of other states that use coal.

If the competitive edge we enjoy is gone, our energy-intensive industries will be gone — not to Indiana, but to India.

And we're using every opportunity possible to tell voters what the effects on them and their economy will be. At this point, the outcome looks quite bleak.

Miranda Combs Harvey is deputy executive director of FACES of Coal.

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**News Headline:** EPA Wants Clean Water Act Enforced For Chesapeake |  

**Outlet Full Name:** USA Today - Online

**News OCR Text:** Two years ago, states surrounding the Chesapeake Bay vowed to clean it up. Now the Environmental Protection Agency says it's time to enforce the plan to do it. As Gigi Barnett explains, the move could have a big impact on Maryland's river and smaller waterways.

States surrounding the Chesapeake promised to put in place tough new cleanup measures by 2025. Now, two years into that deadline, the Environmental Protection Agency threatened to start holding states accountable with stronger enforcement measures.

"This could be a new day for the Chesapeake Bay," said William Baker, who heads the Chesapeake Bay Foundation.

Baker says the days when states police themselves on the clean-up are coming to an end. It's something environmental groups like his say are long overdue.

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"The federal clean water act was designed to give the federal government the tools to manage these multi-state systems," Baker said. "It's incumbent upon the federal government to exercise that authority. No one state can do it alone."

The EPA wants states to cut nitrogen and phosphorus pollution by 25%. It also wants pollution caps on rivers, like the Back River in Baltimore County, that flow into the Chesapeake Bay.

"They're critical to the system," Baker said.

But some states are against the EPA stepping in just yet. The EPA says states like Virginia and Pennsylvania aren't doing enough to make an impact. While the EPA has approved Maryland's cleanup efforts, Baker says the Chesapeake won't survive without help from all bordering states.

"This point in time must be seized. The federal government and the states must reduce pollution to turn the bay around," Baker said.

Bay states have until November 29 to beef up their cleanup plans. The EPA says it will approve those plans by the end of the year.

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